

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 153
95TH GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Food Production and Outdoor Resources, February 25, 2009, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

0122S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal section 416.440, RSMo, and to enact in lieu thereof one new section relating to the sale of milk.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 416.440, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 416.440, to read as follows:

416.440. 1. No milk processor or distributor shall, with the intent or with
2 the effect of unfairly diverting trade from a competitor, or of otherwise injuring
3 a competitor, or of destroying competition, or of creating a monopoly, give or offer
4 to give any milk product purchaser any rebate, discount, free service or services,
5 advertising allowance, pay for advertising space used jointly, donation, free
6 merchandise, rent on space used by the retailer for storing or displaying the milk
7 processor's or distributor's merchandise, financial aid, free equipment, or any
8 other thing of value[; except the bona fide return by a cooperative association to
9 its members on a patronage basis of the savings realized on products sold and
10 distributed to the members or patrons].

11 2. Proof of the giving or offer to give anything of value is prima facie
12 evidence of a violation of this section.

13 3. **Notwithstanding any provision of law to the contrary, the**
14 **economic benefits and services provided by a cooperative association**
15 **to its members, including but not limited to the bona fide return on a**
16 **patronage basis of the savings realized on products sold and**
17 **distributed to the members or patrons, shall not be considered a**
18 **violation of this section.**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 4. No milk product purchaser shall accept from any milk processor or
20 distributor any rebate, discount, free service or services, any advertising
21 allowance, pay for advertising space used jointly, donation, free merchandise, rent
22 on space used by retailer for storing or displaying the milk processor's or
23 distributor's merchandise, financial aid, free equipment, or any other thing of
24 value[; except the bona fide receipt from a cooperative association of a patronage
25 refund based on the patronage of the purchaser with the cooperative association].

26 [4.] 5. Proof of the acceptance of any thing of value by any milk product
27 purchaser is prima facie evidence of the violation of this section.

28 **6. Notwithstanding any provision of law to the contrary, the bona**
29 **fide receipt by a member of a cooperative association of the economic**
30 **benefits and services provided by the cooperative to its members,**
31 **including but not limited to receipt of a patronage refund based on the**
32 **patronage of the purchaser with the cooperative association, shall not**
33 **be considered a violation of this section.**

34 [5.] 7. This section does not prevent a processor or distributor from
35 furnishing point-of-sale advertising material to a retailer without cost for the
36 promotion of the sale of the processor's or distributor's products.

37 [6.] 8. This section does not prevent a discount of two percent or less for
38 payment on or before a certain date.

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